



RCE/1652  
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PTO/SB/30 (09-03)

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<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: MS RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	09/902,525
	<b>Filing Date</b>	July 9, 2001
	<b>First Named Inventor</b>	Jay M. SHORT
	<b>Art Unit</b>	1652
	<b>Examiner Name</b>	R. Hutson
	<b>Attorney Docket No.</b>	564462001020

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply – 23 pgs.

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☒ Other Fee Trans 1 pg.+ dup.; Rule 132 Dec

☒ Other cont'd: Postcard w/CV-15pgs; Exh A-5 pgs; Ex. 14-3 pgs.

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 03-1952

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17) – 1 pg.

iii. ☐ Other \_\_\_\_\_

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Name (Print/Type)	Gregory P. Einhorn	Registration No. (Attorney/Agent)	38,440
Signature		Date	June 4, 2004

**CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"**  
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop RCE, P.O. Box 1450, Alexandria, Virginia 22313-1450, on June 4, 2004.

Jeanne Amour

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SD-202785



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jay M. Short et al.

Art Unit : 1652

Serial No. : 09/902,525

Examiner : Richard Hutson, Ph.D.

Filed : July 9, 2001

Title : PHOSPHATASE-ENCODING NUCLEIC ACIDS AND METHODS OF  
MAKING AND USING THEM (amended)

**MAIL STOP RCE**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RCE RESPONSE AND AMENDMENT**

Responsive to the Final Office Action mailed November 03, 2003, Applicants respectfully request entry of the amendments and consideration of the remarks set forth herein. A Notice of Appeal was filed February 06, 2004. Thus, a response was initially due April 06, 2004. A petition for a two month extension of time is submitted herewith extending the time to reply to June 06, 2004. Accordingly, this response is timely filed.

This response is accompanied by a request for continued examination (RCE) under 37 C.F.R. §1.114. Thus, the finality of the outstanding final office action will be withdrawn and Applicants are entitled to have this first submission for this RCE entered and considered on the merits.

Amendment to the Claims are reflected in the listing of claims which begin on page 4 of this paper.

Remarks begin on page 14 of this paper.

The following documents are also enclosed herewith:

- Request for continued examination transmittal under 37 C.F.R. §1.114;
- Petition for extension of time, Fee Transmittal, postcard;

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Mail Stop RCE, Alexandria, VA 22313-1450.

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June 4, 2004

Date of Deposit

Signature

Jeanne Amour

Typed or Printed Name of Person Signing Certificate

Applicant : Jay M. Short et al.  
Serial No. : 09/902,525  
Filed : July 9, 2001  
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Attorney's Docket No.: 56446-20010.20/ 045002/  
D1230-2

- Rule 132 declaration by Dr. Jay Short, and credentials (CV);
- copy of Exhibit A from Applicants' response of July 25, 2003;
- copy of Example 14 from USPTO written description guidelines.